



STATE OF INDIANA

MICHAEL R. PENCE, Governor

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November 18, 2015

Ms. Marjorie Fink
52564 Highland Drive
South Bend, Indiana 46635

Re: Formal Complaint 15-FC-276; Alleged Violation of the Access to Public Records Act by the St. Joseph Superior Court

Dear Ms. Fink:

This advisory opinion is in response to your formal complaint alleging the St. Joseph Superior Court ("Court") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* As of the writing of this opinion, the Court has not responded despite an invitation by this Office to do so on October 16, 2015. Pursuant to Ind. Code § 5-14-5-10, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on October 16, 2015.

BACKGROUND

Your complaint dated October 12, 2015 alleges the St. Joseph Superior Court violated the Access to Public Records Act by failing to provide the documents requested.

You filed a public access request with the Court. On September 22, 2015 the Court informed you Mr. Mitchell would have the transcript you requested available. However, as of the filing of this request, you have not received any records from Mr. Mitchell.

ANALYSIS

The public policy of the APRA states that "(p)roviding persons with information is an essential function of a representative government and an integral part of the routine duties of public officials and employees, whose duty it is to provide the information." See Ind. Code § 5-14-3-1. The St. Joseph Superior Court is a public agency for the purposes of the APRA. See Ind. Code § 5-14-3-2(n)(1). Accordingly, any person has the right to inspect and copy the Court's disclosable public records during regular business hours unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. See Ind. Code § 5-14-3-3(a).



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A request for records may be oral or written. See Ind. Code § 5-14-3-3(a); § 5-14-3-9(c). If the request is delivered in person and the agency does not respond within 24 hours, the request is deemed denied. See Ind. Code § 5-14-3-9(a). If the request is delivered by mail or facsimile and the agency does not respond to the request within seven (7) days of receipt, the request is deemed denied. See Ind. Code § 5-14-3-9(b). A response from the public agency could be an acknowledgement the request has been received and information regarding how or when the agency intends to comply.

Without the benefit of a response from the Court, this Office cannot determine whether the Court's actions were justified. You take exception to the length of time taken to produce the records; however, there is no timeframe for production other than "a reasonable amount of time". See Ind. Code § 5-14-3-3. The seven day deadline you reference in your complaint is the amount of time the Court would have had to merely acknowledge your request. It appears it did so. Transcripts are prepared by Court reporters who may or may not be a quasi-governmental actor. Based on prior experience, I can state with reasonable certainty that two and a half weeks is not an unreasonable amount of time to prepare a transcript.

CONCLUSION

It is the Opinion of the Public Access Counselor the St. Joseph Superior Court has not violated the Access to Public Records Act.

Regards,

A handwritten signature in black ink, appearing to read "L. H. Britt", with a stylized flourish extending from the bottom.

Luke H. Britt
Public Access Counselor